

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

SHANNON PEREZ, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>	)	CIVIL ACTION NO.
	)	SA-11-CA-360-OLG-JES-XR
	)	[Lead case]
v.)	
)	
STATE OF TEXAS, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	
<hr style="width: 40%; margin-left: 0;"/>)	
)	
MEXICAN AMERICAN LEGISLATIVE	)	CIVIL ACTION NO.
CAUCUS, TEXAS HOUSE OF	)	SA-11-CA-361-OLG-JES-XR
REPRESENTATIVES (MALC),	)	[Consolidated case]
)	
<i>Plaintiffs,</i>)	
)	
v.)	
)	
STATE OF TEXAS, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	
<hr style="width: 40%; margin-left: 0;"/>)	
)	
TEXAS LATINO REDISTRICTING TASK	)	CIVIL ACTION NO.
FORCE, <i>et al.</i>,	)	SA-11-CA-490-OLG-JES-XR
	)	[Consolidated case]
)	
<i>Plaintiffs,</i>)	
)	
v.)	
)	
RICK PERRY,)	
)	
<i>Defendant.</i>)	
<hr style="width: 40%; margin-left: 0;"/>)	

MARGARITA V. QUESADA, <i>et al.</i>,	)	CIVIL ACTION NO.
<i>Plaintiffs,</i>	)	SA-11-CA-592-OLG-JES-XR
	)	[Consolidated case]
)	
v.)	
)	
RICK PERRY, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	
_____)	
)	
)	
EDDIE RODRIGUEZ, <i>et al.</i>,	)	CIVIL ACTION NO.
<i>Plaintiffs,</i>	)	SA-11-CA-635-OLG-JES-XR
	)	[Consolidated case]
)	
v.)	
)	
RICK PERRY, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

DEFENDANTS' MOTION TO STAY CANDIDATE FILING AND ADMINISTRATIVE DEADLINES FOR ELECTIONS FOR THE TEXAS HOUSE OF REPRESENTATIVES, TEXAS SENATE, AND TEXAS'S CONGRESSIONAL DISTRICTS

Due to the Supreme Court's December 9, 2012 order staying the interim redistricting maps ordered into effect by this Court, Defendants Rick Perry, in his official capacity as Governor, Hope Andrade, in her official capacity as Secretary of State, and the State of Texas (collectively, "Defendants") respectfully move this Court to stay all deadlines and requirements governing candidate filing and administration of the 2012 elections for the Texas House of Representatives, the Texas Senate, and Texas's congressional districts. In support, Defendants state as follows:

On November 4, 2011, this Court adjusted the schedule for 2012 primary elections to federal, state, county, and local offices. *See* Order, Doc. 486, *Perez, et al. v. Perry, et al.*, No.

5:11-cv-360-OLG-JES-XR (Nov. 4, 2011), *amended*, Doc. 489 (Nov. 7, 2011). Under that schedule, the candidate filing period opened on November 28, 2011 and would close on December 15, 2011. The Court also modified the Texas Constitution's rules governing residency of candidates for election to the Texas House of Representatives and the Texas Senate. *See id.* at 3. On November 23, 2011, this Court entered separate orders establishing interim electoral districts for 2012 elections to the Texas House of Representatives and the Texas Senate. *See Order*, Doc. 528, *Perez, et al. v. Perry, et al.*, No. 5:11-cv-360-OLG-JES-XR (W.D. Tex. Nov. 23, 2011); *Order*, Doc. 89, *Davis, et al. v. Perry, et al.*, No. 5:11-cv-788-OLG-JES-XR (W.D. Tex. Nov. 23, 2011). The Court entered an interim redistricting order for the United States House of Representatives on November 26, 2011. *See Order*, Doc. 544, *Perez, et al. v. Perry, et al.*, No. 5:11-cv-360-OLG-JES-XR (W.D. Tex. Nov. 26, 2011).

Defendants filed emergency applications to stay each of the Court's interim redistricting orders with the Honorable Antonin Scalia, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit. Justice Scalia referred the Defendants' applications for stay to the full Supreme Court, which stayed this Court's interim redistricting orders on December 9, 2011, pending further order of the Supreme Court. *See Order*, 565 U.S. ____ (U.S. Dec. 9, 2011), attached as Exhibit 1. Further, the Supreme Court treated Defendants' applications as jurisdictional statements and noted probable jurisdiction in each case. *See id.* The Supreme Court consolidated the cases and set them for oral argument on January 9, 2012. *Id.*

This Court retains authority to extend time limitations imposed by State election laws if necessary. *See, e.g., Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187, 201 n.11 (1972), *cited in Larios v. Cox*, 305 F. Supp. 2d 1335, 1342 (N.D. Ga. 2004). As a result of the

Supreme Court's stay of this Court's interim redistricting orders, no electoral districts are currently in effect for 2012 elections for the Texas House of Representatives, the Texas Senate, and Texas's congressional districts. Because no electoral districts are currently in effect, candidate filing cannot proceed as previously ordered for these three legislative bodies. Further, because no electoral districts are currently in effect, other preliminary steps that must be taken by State, local, and party officials administering the 2012 elections for these three bodies cannot proceed as previously ordered or as currently provided by State law. As a result, the only appropriate response to the Supreme Court's stay of this Court's interim redistricting plans is an immediate stay of all deadlines and requirements governing candidate filing and administration of the 2012 elections for the Texas House of Representatives, the Texas Senate, and Texas's congressional districts, until further order by this Court or the Supreme Court.

Staying the filing periods and administrative requirements associated with these three races is not only necessary in light of the Supreme Court's action, it will provide much-needed clarity to candidates, election officials, and the public. Candidates cannot file for office, and election officials cannot proceed with their duties, unless usable electoral districts are in place. Due to the Supreme Court's stay of the electoral districts drawn by this Court, there are no usable electoral districts in place. A stay of the candidate filing period and all other administrative deadlines and requirements associated with the Texas House, Texas Senate, and congressional races will clarify the obligations of candidates and election officials and will preserve the status quo until the Supreme Court reaches a decision. After the Supreme Court rules, and once usable electoral districts are in place, candidate filing and election administration can immediately resume.

CONCLUSION

For the reasons stated above, Defendants respectfully request that this Court stay all deadlines and requirements governing candidate filing and administration of the 2012 elections for the Texas House of Representatives, the Texas Senate, and Texas's congressional districts, until further order by this Court or the Supreme Court.

Dated: December 12, 2011

Respectfully Submitted,

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I hereby certify that a true and correct copy of this filing was sent via the Court's electronic notification system and/or email to the following counsel of record on December 12, 2011 to:

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